

# NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

TESTIMONY OF  
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**OREGON LEGISLATIVE ASSEMBLY**  
President-elect, National Conference of State Legislatures

ON BEHALF OF THE  
NATIONAL CONFERENCE OF STATE LEGISLATURES

REGARDING  
IMPLEMENTING MAP-21: THE STATE AND LOCAL PERSPECTIVE

BEFORE THE  
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
UNITED STATES HOUSE OF REPRESENTATIVES

APRIL 25, 2013

Chairman Petri, Ranking Member DeFazio and distinguished members of the House Subcommittee on Highways and Transit, I am Bruce Starr, President-elect of the National Conference of State Legislatures (NCSL) and a member of the Oregon State Senate. I appear before you today on behalf of NCSL, a bi-partisan organization representing the 50 state legislatures and the legislatures of our nation's commonwealths, territories, possessions and the District of Columbia.

Mr. Chairman, I would like to take this opportunity to thank you and the committee for your leadership on the important issue of MAP-21 implementation, not just with today's hearing, but with the hearing last month featuring the key modal administrators from the U.S. Department of Transportation. I would also like to applaud Congress for its approval of the Moving Ahead for Progress in the 21st Century Act (MAP-21). The enactment of MAP-21 put an end to the numerous short-term extensions, which created significant uncertainty regarding the availability of funding for surface transportation. With MAP-21 facing reauthorization in 2014, this hearing is an important step to recognize and review its successes as well as those policy areas in need of an update, so that all parties, including state legislatures, can work together to ensure a safe and reliable surface transportation system throughout the country.

The federal government plays a vital role in supporting a national surface transportation system that facilitates interstate commerce, addresses fairly and equally the mobility needs of all Americans and meets our national defense needs. NCSL supports the continuation and preservation of a federal-aid surface transportation program that directs spending to national priorities while allowing for state and insular area flexibility in local and regional variations. The federal program should provide maximum flexibility in deciding how to generate and leverage transportation revenues and how to use state and federal dollars. The ability of states to maintain flexibility in decision making and comply with environmental and other mandates depends on regulatory flexibility as well as adequate and reliable funding.

### **Infrastructure Priorities**

Before I begin a more specific discussion on the implementation of MAP-21, I would like to highlight for the committee that infrastructure is one of NCSL's Top Ten Priorities for the 113<sup>th</sup> Congress. NCSL maintains its strong support for infrastructure programs and will work to

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ensure that all funding and financing options remain available to states to continue the economic benefits that infrastructure programs provide. As part of this priority, NCSL recently approved its Surface Transportation Federalism Policy Directive at our 2012 Legislative Summit. Passage of a policy directive requires 75 percent approval, ensuring that our Surface Transportation Federalism Policy Directive had wide bipartisan support. A copy of that policy directive and NCSL's Top Ten Priorities are included as an appendage to my testimony.

### **Performance Management**

One of the largest transformations within MAP-21 was a shift to a more performance based program so as to ensure that investments are correctly targeted as well as increase the accountability and transparency of these investments.

NCSL encourages the federal government to establish a cooperative process through which performance measures can be crafted for gauging the success of programs. As the U.S. Department of Transportation (USDOT) continues this process of implementing the changes required in MAP-21, we urge the department both to recognize and build off the extensive work states have done with regard to performance management. We also urge the department and Congress to avoid creating additional reporting mandates or implementing lowest-common denominator performance measures that run counter to good asset management practices.

To highlight this concern, I would note that in 2011, Oregon was recognized by the Pew Center as one of five states with a performance management system that received top marks across six areas. The Oregon Department of Transportation (ODOT) uses performance management to report to the Oregon Legislative Assembly on its progress toward meeting key goals, as well as to make important decisions on allocation of resources. When measuring the health of Oregon's bridges, ODOT uses an indicator that encompasses a number of factors, including freight mobility needs, bridge safety, serviceability, and structural sufficiency. In conversations with ODOT, they have indicated that USDOT will likely use structural deficiency as the national bridge performance measure because it is a data point that is readily and widely available. Similarly, Oregon and a number of other states use pavement condition measures that measure the structural condition of pavement to determine whether action is warranted. Speaking on behalf of Oregon, I am concerned that U.S. DOT may decide to use the International

Roughness Index (IRI) data to measure pavement quality primarily because this data is already collected and standardized across states. However, IRI only measures a pavement's ride quality, but does not address the underlying structural condition.

These two examples highlight why the federal government should build upon the work states have done as well as demonstrate why it would be a mistake for the federal government to mandate the use of federal performance measures for making important investment decisions when other, more complete measures would provide more accurate information.

### **Program Consolidation**

MAP-21 also featured a significant restructuring of transportation programs into a smaller set of core programs with the intention that the new structure would give states and other grantees additional flexibility to deliver projects more efficiently. NCSL supports this enhanced programming flexibility in order to meet a multitude of national goals and its continuation in any reauthorization effort.

This flexibility and consolidation is exemplified by the Transportation Alternatives Program. Under the program structure contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local governments often submitted multiple grant applications for the same project under programs such as Transportation Enhancements, Recreational Trails, Safe Routes to School, and Transportation, Community and System Preservation. By combining all of these programs into a single Transportation Alternative Program, MAP-21 created the opportunity for local governments to submit a single application for funding. Oregon is putting this simplified program structure to use as we develop our next Statewide Transportation Improvement Program (STIP). Oregon is mirroring the consolidations made in MAP-21 and using the flexibility it provides to break down programmatic silos and create larger consolidated programs. This will allow Oregon to work with stakeholders and make it easier for users - particularly local governments - to acquire funding without having to submit multiple grant applications to multiple programs.



## **TIFIA**

One program in particular from MAP-21 that I would like to discuss is the Transportation Infrastructure Financing and Innovation Act (TIFIA). As reported by the Government Accountability Office (GAO) in June 2012, demand for the program has been very high, with requests exceeding budgetary resources by a ratio of 10 to 1 since 2008.<sup>i</sup> With MAP-21 authorizing an expansion of TIFIA to \$1.75 billion over two years, from only \$122 million in FY 2012, states will be able to finance and complete major projects of national and regional significance. NCSL is very supportive of this kind of expansion of credit-based and loan guarantee programs to incentivize private sector investment.

In Oregon, we are working with Washington State and plan to seek a TIFIA loan of approximately \$1 billion to help construct the I-5 Columbia River Crossing project, a bi-state multimodal megaproject that will address one of the worst bottlenecks on the nation's highway system. The favorable financing terms provided by a TIFIA loan are expected to allow tolls levied on bridge users to leverage about \$200 million more than if the state were to bond against those tolls, making the project more financially feasible.

## **Project Streamlining**

NCSL believes that the federal government has a role to play in ensuring that national environmental policy aligns with national transportation policy, while assuring efficient and cost-effective approaches to both goals. The findings of an August 2011 Congressional Research Service (CRS) report noted that major highway projects can take ten to 15 years to plan and build. NCSL favorably views efforts included in MAP-21 to streamline regulatory review processes so that construction projects can again be realized on-time and on-budget.<sup>ii</sup>

Some of the streamlining provisions included in MAP-21 allowed for significant changes to requirements around categorical exclusions (CE). However, it remains an open question whether states will see significant benefits from these changes as the Federal Highway Administration (FHWA) has yet to initiate a rulemaking on one potentially important area related to categorical exclusions. This rulemaking would both establish new categories of CEs and move some existing categories from a list that currently requires documentation to a list that does not require documentation. NCSL urges the committee to ensure that state legislatures are

consulted throughout the promulgation of this rule. Such consultation will lead to better results, while strengthening the federal, state, and local government partnership in implementing MAP-21. For example, in order for Oregon to begin taking advantage of this possible benefit by moving items to the “no documentation” list, FHWA would have to modify its regulations or interpretations of the regulations related to categorical exclusions including 23 CFR 771.117 (c), to reduce the need for documentation on projects that do not have significant environmental impacts.

### **National Highway and Transportation Safety Administration (NHTSA)**

MAP-21 consolidated various grant programs from SAFETEA-LU, including impaired driving and motorcycle grants, along with the new graduated driver licenses and distracted driving grants, into the new Section 405 National Priority Safety program. While NCSL supports a continued federal role in helping to set national performance safety goals, NCSL encourages the expansion of safety programs to incorporate emerging safety issues, and opposes the use of federal sanctions or redirection penalties to enforce federal safety standards. I have heard concerns regarding some of these grants that the qualifications are so high it may be difficult for states to participate. Specifically, it may be difficult for some states to qualify for the new incentive grants for graduated driver licenses and occupant protection. Although as the rule making process has not been finalized, I hesitate to draw a final conclusion. NCSL would be happy to work with the committee in the future to help identify those states that would require legislative changes in order to qualify for these grants.

### **Engagement**

The last point I’d like to address regarding the implementation of MAP-21 is the broad level of engagement NCSL has had with USDOT.

USDOT has developed comprehensive websites, for both FHWA and Federal Transit Administration (FTA), that provides detailed overviews and analysis of provisions contained in MAP-21. USDOT has also reached out to NCSL to provide informational updates regarding MAP-21 to state legislators. In August 2012, Deputy Secretary Porcari attended NCSL’s Legislative Summit and spoke with our Transportation Committee about MAP-21. Additionally, Secretary LaHood attended NCSL’s Legislative Leaders meeting last month where he joined

state legislators, including myself, in a robust discussion on a number of issues related to MAP-21 including a state's authority to toll interstate highways and the expansion of TIFIA. NCSL also recently partnered with the National Highway Traffic Safety Administration (NHTSA) for a webinar designed to help states understand how they could qualify for the numerous new highway safety incentive grants that were included as part of MAP-21. USDOT has also hosted a number of webinars and roundtables seeking input from various parties as USDOT seeks to implement MAP-21.

### **Beyond MAP-21**

Finally, I'd like to quickly address what I believe to be the 800 pound gorilla in the room; how MAP-21, which expires in less than a year and half, can help lay the foundation for the next long-term surface transportation bill. NCSL believes the next reauthorization should provide for a more sustainable long-term funding mechanism for surface transportation. In Oregon, one option that we have begun to test is moving towards a system that requires user fees based not on the amount of gasoline they purchase but rather on the number of vehicle miles they travel, in order to ensure that those users receiving the greatest benefit from the federal highway system pay a proportional share of the costs. As state legislators have responsibility for state budgets, policy planning and oversight activities we stand ready to work with Congress as it develops the successor to MAP-21.

Mr. Chairman, I thank you for this opportunity to testify before the subcommittee. MAP-21 included numerous changes to our surface transportation programs and ensuring that these changes are implemented correctly will help to guarantee a safe and reliable surface transportation system throughout the country. I look forward to questions from members of the subcommittee.

### **Appendices:**

NCSL Surface Transportation Federalism Policy Directive

NCSL State-Federal Priorities for the 113<sup>th</sup> Congress

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<sup>i</sup> Government Accountability Office. "Financing Program Could Benefit from Increased Performance Focus and Better Communication." June 21, 2012. Accessed from: <http://www.gao.gov/products/GAO-12-641>

<sup>ii</sup> Congressional research Service. "Accelerating Highway and Transit Project Delivery: Issues and Options for Congress." August 3, 2011. Accessed from : <http://bit.ly/CRS080311>





# NCSL

## State-Federal Priorities

113<sup>th</sup> Congress



*A*s the voice of state legislatures in Washington D.C., the National Conference of State Legislatures (NCSL) works to enhance the role of states and state legislatures in the federal system. These state federal activities are guided by NCSL's Executive Committee and 10 Standing Committees.

**State Sovereignty/Restoring State Authority:** NCSL works with Congress and the administration to ensure that states, particularly state legislatures, maintain their sovereignty, enjoy flexibility to manage state federal programs, and are not subjected to unfunded federal mandates or unwarranted federal preemption.

**Marketplace Fairness Act:** NCSL leads the effort to enact federal legislation that would allow states to require online and catalog companies that do not have physical presence in their state to collect and remit that state's sales taxes.

**Federal Deficit Reduction:** NCSL opposes shifting the cost of deficit reduction to the states and seeks to ensure that any reductions are coupled with flexibility for states to manage programs, seek relief from onerous maintenance of efforts requirements and unfunded mandates.

**Affordable Care Act (ACA):** NCSL monitors federal regulations and congressional legislation to ensure that states have a voice in the implementation of ACA.

**Education:** NCSL advocates for state flexibility to ensure that our children are college and career ready and given the skills to fill 21<sup>st</sup> Century jobs.

**Infrastructure:** NCSL maintains its strong support for infrastructure programs and will work to ensure that all funding and financing options remain available to states that continue the economic benefits infrastructure programs provide.

**Unfunded Mandates:** NCSL seeks to strengthen the federal Unfunded Mandates Reform Act (UMRA), prevent the enactment of new unfunded or underfunded federal mandates and eliminate or modify existing unfunded federal legislative and regulatory mandates.

**National Energy Plan/Domestic Energy Production:** NCSL continues to urge Congress and the administration to work cooperatively with state legislatures to develop, implement and maintain an expansive, integrated, environmentally-sensitive and cost-effective national energy policy.

**U.S. Environmental Protection Agency (EPA) Regulations:** NCSL ensures that state legislative concerns and perspectives are considered as regulations are proposed and promulgated and programs are implemented.

**Farm Bill Reauthorization:** NCSL continues to urge Congress to expeditiously reauthorize a Farm Bill that ensures the continuation of the crop insurance program and state flexibility in the Supplemental Nutrition Assistance Program (SNAP).

**Military and Veterans:** NCSL supports efforts to provide benefits and services to our military veterans and to find innovative ways to expand and grow job opportunities for our veterans.

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## 2013 State Legislative Calendars

State	Convene	Adjourn
Alabama	Feb. 5	May 20
Alaska	Jan. 15	April 14
Arizona	Jan. 14	late April
Arkansas	Jan. 14	March 14
California	Dec. 3, 2012	Sept 13
Colorado	Jan. 9	May 8
Connecticut	Jan. 9	June 5
Delaware	Jan. 8	June 30
Florida	March 5	May 2
Georgia	Jan. 14	early April
Hawaii	Jan. 16	late April
Idaho	Jan. 7	early April
Illinois	Jan. 9	May 31
Indiana	Jan. 7	April 29
Iowa	Jan. 14	May 3
Kansas	Jan. 14	late May
Kentucky	Jan. 8	Mar 26
Louisiana	April 8	June 6
Maine	Dec. 5, 2012	June 19
Maryland	Jan. 9	April 8
Massachusetts	Jan. 2	*
Michigan	Jan. 9	*
Minnesota	Jan. 8	May 20
Mississippi	Jan. 8	April 7
Missouri	Jan. 9	May 30
Montana	Jan. 7	April 27
Nebraska	Jan. 9	early June
Nevada	Feb. 4	June 3
New Hampshire	Jan. 2	July 1
New Jersey	Jan. 8	*
New Mexico	Jan. 15	March 16
New York	Jan 9	*
North Carolina	Jan. 30	early July
North Dakota	Jan. 8	March 28
Ohio	Jan. 7	*
Oklahoma	Feb. 4	May 31
Oregon	Feb. 4	July 13
Pennsylvania	Jan. 1	*
Rhode Island	Jan. 1	late June
South Carolina	Jan. 8	June 6
South Dakota	Jan. 8	mid March
Tennessee	Jan. 8	mid May
Texas	Jan. 8	May 27
Utah	Jan. 28	March 14
Vermont	Jan. 9	mid May
Virginia	Jan. 9	Feb 23
Washington	Jan. 14	Apr 28
West Virginia	Feb. 13	Apr 13
Wisconsin	Jan. 7	*
Wyoming	Jan. 8	early March
D.C.	Jan. 2	*
American Samoa	Jan. 14	
Guam	Jan. 14	*
No. Marina Is.	Jan. 14	
Puerto Rico	Jan. 14	May 14
Virgin Islands	Jan. 14	*

\* = Legislature meets throughout the year.

## NCSL Leadership

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Speaker Terie Norelli, New Hampshire

### President-Elect

Senator Bruce Starr, Oregon

### Vice President

Senator Debbie Smith, Nevada

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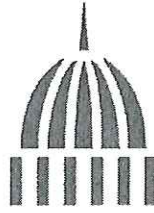
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### Mission Statement

The National Conference of State Legislatures is a bipartisan organization founded to:

- Improve the quality and effectiveness of state legislatures;
- Promote policy innovation and communication among state legislatures;
- Ensure state legislatures a strong, cohesive voice in the federal system.

*Strong States, Strong Nation*



# NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

## **SURFACE TRANSPORTATION FEDERALISM POLICY DIRECTIVE**

***NCSL Energy, Transportation and Agriculture Standing Committee***

The National Conference of State Legislatures (NCSL) calls on Congress to work closely with states to develop a shared, long-term vision for financing and funding surface transportation systems that will enhance the nation's prosperity and the quality of life of all Americans.

The federal government plays a vital role in supporting a national surface transportation system that meets national defense needs, addresses fairly and equally the mobility needs of all Americans and facilitates interstate commerce. NCSL supports the continuation and preservation of a federal-aid surface transportation program. The federal program should direct spending to national priorities while allowing for state and insular area flexibility in local and regional variations. It is also essential that the federal-aid surface transportation program incorporate requirements and foster goals of other national policies that impact transportation decision-making.

Recent federal reauthorizations have recognized the unique contributions of each transportation mode to the productivity of the states and the nation, and to the ability of this

nation to compete globally in the emerging and existing international economies. These laws contemplate an integrated transportation system for the movement of both goods and people, with increased emphasis on adopting technologies that improve productivity. NCSL urges Congress to provide states enhanced programming flexibility to meet a multitude of national goals. States should have maximum flexibility in deciding how to generate and leverage transportation revenues and how to use state and federal dollars. The ability of states to maintain flexibility in decision making and comply with environmental and other mandates is dependent upon regulatory flexibility as well as adequate and reliable funding.

## **National Vision**

The surface transportation system in the United States needs a new vision to guide it beyond the Interstate Highway era into the 21st century and the needs and challenges that lie ahead. Congress should look at surface transportation anew, authorizing a new program that better meets current and future needs for interstate mobility.

Congress must clearly articulate this new national vision for surface transportation. In doing so, Congress should consider the following as federal objectives:

- Interstate commerce and freight mobility,
- Interstate movement of people,
- National defense and homeland security,
- Safety,
- Environmental and air quality preservation and improvements,
- Research and innovation, and



- Economic productivity.

Congress should focus federal programs and funds on these interstate goals. In doing so, Congress should heed the Tenth Amendment and not intervene in or interfere with state-specific transportation priorities.

### **Funding and Financing**

A federal trust fund, financed by user fees, should be retained as the primary method of funding federal-aid surface transportation programs. It must provide states a sustained, reliable source of transportation funding. It is critical that the Highway Trust Fund (HTF) retain spending firewalls that ensure that user fees will be deposited in the HTF to be used on surface transportation and will not be subject to non-transportation federal discretionary spending. NCSL supports states having maximum flexibility in the use of funds they receive from the HTF. Additional surface transportation financing and investment priorities include the following.

- User fees previously collected and diverted from the HTF must be reclaimed.
- Transit agencies, including commuter rail operations, should be exempt from federal fuel or energy taxes.
- Unobligated revenues should not be allowed to accumulate in the HTF. Moreover, federal highway spending should not be artificially reduced so that HTF revenues will accumulate unspent, thereby appearing to lower the federal deficit.
- Annual appropriations should equal authorized spending levels. Obligation ceilings should be set and maintained to reflect gross receipts, plus interest earned.



- Any federal user fee or container fee assessed for transportation security or infrastructure should provide for state flexibility in project selection and may include private sector input when programming projects funded by a security or infrastructure user fee or container fee.
- User fees designated for deposit in the HTF should be made available for flexible transportation usage by states. States should have flexibility in the use of funds for intercity passenger rail service, including Amtrak. The federal match should encourage state efforts in specific programs of national significance, but not discourage flexibility in state or insular area transference of categorical funds. Despite separate federal authorizing legislation for Amtrak, Congress must ensure that surface transportation authorizing legislation acknowledges and fully supports the role of passenger rail for ensuring interstate mobility. States that invest in or otherwise support passenger rail services to complement highway mobility options should be rewarded and encouraged.
- Any examination undertaken on the advisability and feasibility of establishing a federal capital budgeting program should preserve the ability of states to set surface transportation infrastructure priorities.
- Federal formulas designed to distribute discretionary highway funds should consider all state, insular area, and local efforts to fund highways and not be limited to fuel taxes raised.
- An increase in federal highway transportation funding is needed in the short-term to provide sufficient funding for the next authorization to meet the new vision and until a new, more stable long-term funding mechanism for surface transportation can be put

in place. Any fees or taxes imposed on carbon-based fuels used by vehicles should be recognized as a traditional source for transportation funding and should remain dedicated to the Highway Trust Fund. Congress must migrate the Highway Trust Fund from a gas tax to a new national funding stream. In order to accomplish this, Congress must examine innovative ways that capture all system users. Congress should encourage pilot programs in states for experimentation with approaches, methods and mechanisms. Any system should ensure the privacy of users.

- Apart from the existing Highway Trust Fund flows for transit, NCSL discourages expansion of federal-local funding streams without appropriate coordination with state legislatures as these complicate state-local relationships, financial arrangements, and state match expectations for transportation programs.
- Congress should continue to encourage and expand incentive-based programs, such as the Urban Partnerships program, to spur local and regional transportation innovation in full coordination with state authorities and to promote the use of tolling, congestion pricing, public transit, telecommuting, real-time traffic and other advanced technologies (also known as intelligent transportation systems), and other strategies in a comprehensive approach to achieve interstate mobility goals through urban congestion reduction.
- All funding and financing options must be available to state legislatures for state and federal-aid programs. All current federal restrictions on states' authority to toll should be removed so that states can optimize resources for capacity expansion, operations and maintenance while ensuring free flow of goods and people. Tolling, value-pricing

and public-private partnerships (PPPs) should remain state provinces and are not appropriate federal funding and financing mechanisms.

- Federal guidelines should be designed to accommodate private sector support. The level of private sector participation is best determined by state and local authorities, and private participation should not be a prerequisite for receiving federal funds. Statutory or regulatory barriers to state and locally-granted revenues should be removed. States should continue to have flexibility in creating legislative and programmatic frameworks for public-private partnerships (PPPs), and full authority to select and engage in PPP projects.
- Congress should not mandate or prescribe state use of toll revenues or tolling mechanisms, though Congress may seek to incentivize states to avoid redirection of toll revenues to non-transportation uses.
- Congress should continue Transportation Infrastructure Finance and Innovation Act (TIFIA), Grant Anticipation Revenue Vehicles (GARVEE), private activity bond, and State Infrastructure Bank (SIB) programs. Congress should expand credit-based and loan guarantee programs to incentivize private sector investment—particularly for freight mobility by rail, highway and waterway—in projects sponsored by the public sector.
- Congressional earmarks on transportation spending or for transportation projects should represent additional funding, should be distributed from non-formula funds, and should not redirect base funding. Earmarks should fit within a national objective as defined in the surface transportation program's new vision and must appear in a state DOT's plan.

## **Technology**

NCSL endorses the U.S. Department of Transportation's goal of deploying advanced technologies known as intelligent transportation systems for consumers of passenger and freight transportation across the nation. Intelligent Transportation Systems are advanced wireless technologies that maximize the safety, mobility and environmental performance of the surface transportation system. These services should be integrated, interoperable, intermodal and voluntary.

NCSL recognizes that the private sector and the federal government should lead in the development and bringing to market of reliable and affordable ITS. The federal government should also set national standards for original equipment manufacturers to install the necessary technology so that states can take full advantage of the efficiencies and safety benefits of intelligent transportation systems. Congress should require the Secretary of Transportation to initiate a rulemaking proceeding that new motor vehicles be equipped with platforms for interoperable systems that enable vehicle-to-vehicle and vehicle-to-roadside communications for the purposes of active safety and electronic tolling and tax collection and to provide a means of accelerating the deployment of this equipment in existing vehicles.

Congress should incentivize states to explore and deploy technology for intelligent infrastructure, making it a high priority and performance measurement benchmark in the restructured federal surface transportation program. Privacy protections must be developed and incorporated into all policies and practices governing use of intelligent transportation



systems and technologies. ITS should not be mandated except for legitimate governmental purposes. Any information collected with such technology should be governed by state laws.

The federal government should encourage states to cooperate with the private sector in the development of real-time traffic information systems.

## **Planning**

Congress must work with state legislators to establish in the next authorization a robust and cooperative state-federal system to set system plans and priorities for federal investment. Transportation program plans developed by entities other than those created by the states must be coordinated with state legislatures to ensure that proposals fit into state programmatic and funding plans.

The federal government is uniquely situated to identify and collect data of importance to the development of, maintenance of, and planning for a national transportation system. Congress should incentivize states to share data with the federal government and not use mandates to elicit participation in data collection and analysis.

NCSL supports a negotiated rule-making led by U.S. Department of Transportation, or another collaborative process congressionally mandated and facilitated by the Transportation Research Board or American Association of State Highway and Transportation Officials (AASHTO), in which NCSL and state legislatures are fully represented to determine the necessary level of and standards for uniformity among states in data collection efforts.

## **Performance Measures**

NCSL encourages the federal government to establish a cooperative process through which performance measures can be crafted for gauging the success of programs. Federal funding should not be directly linked to performance measures; instead, a pilot program should be established in which states can voluntarily participate to gain incentives such as additional funding or reduced regulatory burdens upon successful deployment and use of performance measures. Performance measures should be framed as goals for which states may determine the specific measures and benchmarks.

Federal monitoring and compliance standards should accurately reflect compliance effort and unique state circumstances.

## **Freight and Interstate Commerce**

Ensuring the safe and timely movement of goods across the nation is an appropriate federal transportation priority. Robust state-federal consultation should evaluate freight flows and collaboratively plan the routes and development necessary to maintain and expand the highway freight corridors.

Rail capacity expansion should be coordinated with the states to ensure intermodal cooperation and maximum public benefit.

The federal government should incentivize states to explore methods of separating highway freight traffic from passenger traffic for the purposes of efficiently moving interstate commerce and public safety.

Federal engagement with, and investment through, the states to ensure effective and efficient movement of freight through ports or other commerce choke-points is appropriate.

### **Environmental Issues**

The federal government has a role to play in ensuring that national environmental policy meshes with national transportation policy while assuring efficient and cost-effective approaches to both goals.

- Efforts to streamline regulatory review processes must continue so that construction projects can again be realized on-time and on-budget. Congress should allow and enhance states' programmatic permitting.
- Incentives to states to achieve environmental quality standards through transportation projects should replace prescriptive federal regulation and punitive funding actions.

### **Safety**

NCSL supports a continued federal role in helping to set national performance and safety goals. Safety programs should be expanded to incorporate emerging safety issues while respecting state sovereignty.

Federal transportation safety programs should promote comprehensive safety programs in the states. NCSL opposes the use of federal sanctions or redirection penalties to enforce

federal safety standards. Federal mandates that are enforced through the use of "reprogramming" sanctions should be repealed. Any existing federal compliance standards should reflect overall state effort to promote safety.

### **Research and Innovation**

NCSL acknowledges that federal leadership and investment in transportation related research and innovation is needed and appropriate. In particular, NCSL supports federal research that promotes fuel efficiency, alternative fuels, high-mileage vehicles, safety and technology. Findings and best practices identified through federal research should be shared fully with states in an unbiased, nonpartisan and scientific manner.

### **Indian Programs**

Transportation is an important service program that provides the infrastructure upon which American Indian tribes' initiatives can be achieved. NCSL recognizes the unique and extensive transportation funding needs on Indian lands. In an effort to ensure that these needs are adequately addressed, NCSL supports a direct planning relationship between Indian Nations and state departments of transportation. NCSL further supports the continuation of the Federal Lands Program and its work with Indian reservations.